

THIS DISPOSITION IS NOT  
CITABLE AS PRECEDENT OF THE TTAB 11.4.98

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re American Home Improvement Products, Inc.

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Serial No. 75/061,117

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Diane R. Meyers of Eckert Seamans Cherin & Mellott, LLC for  
Applicant.

Cindy B. Greenbaum, Trademark Examining Attorney, Law  
Office 104 (Sidney Moskowitz, Managing Attorney).

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Before Cissel, Wendel and Bucher, Administrative Trademark  
Judges.

Opinion by Bucher, Administrative Trademark Judge:

Applicant, American Home Improvement Products, Inc., a  
Pennsylvania corporation, has filed an application for  
registration of the mark "**AMERICAN HOMEPRO**" for  
"distributorships of home improvement products such as windows,

doors, awnings, patio covers, patio enclosures, vinyl siding and kitchen cabinets."<sup>1</sup>

The Trademark Examining Attorney issued a final refusal to register based upon Section 6(a) of the Trademark Act, 15 U.S.C. §1056(a), on the ground that applicant has refused to comply with the requirement for a disclaimer of the word "AMERICAN." She takes the position that the word "AMERICAN" is nothing more than geographically descriptive matter under Section 2(e)(2) of the Lanham Act, 15 U.S.C. §1052(e)(2), and therefore that it must be disclaimed prior to the issuance of a federal trademark registration.

The central question before the Board in this case arises under §2(e)(2) of the Trademark Act. As pointed out in TMEP §1210.08(a), there is no "simple or mechanical answer to the question of how to treat 'AMERICA' or 'AMERICAN' in a mark." The issue is whether "AMERICAN" in this context primarily denotes the United States origin or scope of the services as the Trademark Examining Attorney argues, or whether the term is used in a nebulous or suggestive manner, as applicant argues.

As applicant notes, we must look at this mark, "AMERICAN HOMEPRO," in its entirety. In the context of this composite mark, "AMERICAN" is the first word of a two-word mark, followed

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<sup>1</sup> Serial No. 75/061,117, in International Class 35, filed February 22, 1996, based upon an allegation of a *bona fide*

by the word "HOMEPRO." Since applicant intends to provide the services of a wholesale distributor of home products under the mark, the word "HOMEPRO" appears to be a coined word, suggestive of "home products," "home professional," or the like.

Applicant argues that if one examines this mark in its entirety, the two words must be viewed together as integral components. According to applicant, the word "AMERICAN" has lost its geographic significance when it is combined with the word "HOMEPRO." In a conclusory fashion, applicant states that the overall commercial impression of the mark creates something nebulous and new. However, nowhere do we find a satisfying explanation of the new meaning engendered by combining the words "AMERICAN" and "HOMEPRO."

Accordingly, following the principles summarized in the cases cited by the Trademark Examining Attorney, we find that the word "AMERICAN" is used in the instant mark in a way that primarily denotes the United States origin or scope of applicant's services.<sup>2</sup>

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intention to use the mark in commerce.

<sup>2</sup> See In re BankAmerica Corp., 231 USPQ 873 (TTAB 1986) (BANK OF AMERICA held primarily geographically descriptive); Finance Co. of America v. BankAmerica Corp., 205 USPQ 1016 (TTAB 1979, amended 1980) (THE FINANCE COMPANY OF AMERICA held primarily geographically descriptive); American Paper & Plastic Products, Inc. v. American Automatic Vending Corp., 152 USPQ 117 (TTAB 1966) (AMERICAN AUTOMATIC VENDING held primarily geographically descriptive). Each of these cases, like the instant case, exhibits an "unadorned, simple word AMERICAN." McCarthy on Trademarks and Unfair Competition, §14:11 (4th ed. 1998).

In the cases cited by applicant, the context of each composite mark provides a new, non-geographical meaning for the word "AMERICAN"<sup>3</sup> (e.g., AMERICAN GIRL, ALL AMERICAN, GREAT AMERICAN, etc.). As discussed in these cases, the mere introduction of a subtle nuance may remove a mark from the primarily geographically descriptive category.<sup>4</sup> That is, the overall commercial impression is no longer primarily geographic due to a new double meaning or another suggestive meaning. See also TMEP §1210.08(a)(2).

We find no new or double meanings, however, in the instant mark. Applicant's mark contains a geographical component, "AMERICAN," that is primarily geographically descriptive of the services within the meaning of §2(e)(2) of the Act.

For purposes of §6(a) of the Lanham Act, we must also decide whether this composite represents a "unitary" mark. A

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<sup>3</sup> When U.S.-based companies use "AMERICA" or "AMERICAN" in the context of a composite mark, it is sometimes not deemed to be primarily geographically descriptive, provided the word takes on an arbitrary meaning. See Hamilton-Brown Shoe Co. v. Wolf Brothers & Co., 240 U.S. 251 (1916) (THE AMERICAN GIRL held not primarily geographically descriptive for shoes); In re Jim Crockett Promotions Inc., 5 USPQ2d 1455 (TTAB 1987) (THE GREAT AMERICAN BASH held not primarily geographically descriptive of wrestling exhibitions).

<sup>4</sup> In the context of "THE AMERICAN CAFÉ," the word "AMERICAN" was deemed "nebulous," given the history of cuisine in the United States, and the Board questioned whether "AMERICAN" would even be seen here as modifying the word "CAFÉ." See Holiday Inns, Inc. v. Monolith Enterprises, 212 USPQ 949, 950 (TTAB 1981).

unitary mark is not divided for purposes of disclaiming individual parts. We must determine whether these two words are so integrated that they cannot be regarded as separable elements, or whether "AMERICAN" is a separable component. Inasmuch as the combination of "AMERICAN" and "HOMEPRO" does not create any new, double meaning, we find that the geographic component, "AMERICAN," is a separable feature of this mark.

Decision: In view of the foregoing, the requirement for a disclaimer of the term "AMERICAN," is affirmed and, in the absence of a disclaimer, registration is refused. In accordance with Trademark Rule 2.142(g), if a disclaimer is filed within twenty days of the mailing date of this decision, we will set aside this decision and the mark will be published for opposition.

R. F. Cissel

H. R. Wendel

D. E. Bucher  
Administrative Trademark  
Judges, Trademark Trial and  
Appeal Board

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